

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:
Chandler et al.
Serial No. 10,804,451
Filed: March 19, 2004
For: CREATION OF A DATABASE OF
BIOCHEMICAL DATA AND
METHODS OF USE.

§ Group Art Unit: 3626
§ Examiner: Unknown
§
§ Atty. Docket No. 5868-02804

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I hereby certify that this correspondence is being transmitted via facsimile or deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313, on the date indicated below:

September 7, 2004
Date

Pamela Gerik
Pamela Gerik

PETITION UNDER 37 C.F.R. §1.47(a)

MS: Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir/Madam:

Enclosed herewith are the following:

- Statement of Facts in Support of Filing on Behalf of Non-Signing Inventor under 37 C.F.R. § 1.47(a) with attachments;
- A combined Declaration and Power of Attorney executed by remaining co-inventor;
- An Assignment w/cover sheet executed by co-inventor.

Please address all correspondence in connection with this application to: Customer No. 35617

The Commissioner is authorized to charge the required fees to Conley Rose, P.C. Deposit Account No. 03-2769/5868-02804.

Respectfully submitted,

Ann Marie Mewherter

Ann Marie Mewherter
Reg. No. 50,484
Agent for Applicants

Conley Rose, P.C.
P. O. Box 684908
Austin, Texas 78768-4908
Ph: (512) 476-1400
Date: September 7, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICEIn re Application of:
Chandler et al.

Serial No. 10,804,451

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For: CREATION OF A DATABASE OF
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September 7, 2004



Pamela Gerik

STATEMENT OF FACTS IN SUPPORT OF FILING ON
BEHALF OF NON-SIGNING INVENTOR UNDER 37 C.F.R. § 1.47(a)Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir/Madam:

This statement is as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration under 37 C.F.R. § 1.131 by the non-signing inventor, Mark Chandler, for the above-identified patent application.

This statement is being made by the undersigned, having first-hand knowledge of the facts recited herein.

I, Ann Marie Mewherter, do hereby declare that:

1. I am a registered patent agent commissioned on behalf of Luminex Corporation to procure filing of the captioned matter before the U.S. Patent & Trademark Office.
2. Mark Chandler is a co-inventor of the captioned patent application.
3. I was commissioned to prepare a response to a divisional application from prior application Serial No. 09/662,790.
4. In order to be listed as current counsel of record, a new Declaration/Power of Attorney was prepared for the divisional application.

5. The new Declaration/Power of Attorney was forwarded to both inventors, Mark Chandler and Van S. Chandler. It was sent via email to Van Chandler, attached is a copy. It was sent via certified mail to Mark Chandler after an extended effort to reach him via email and phone, a copy of the cover letter is enclosed herewith as well as a copy of the emails showing our efforts to reach him.
6. The documents were executed by Van Chandler, but Mark Chandler refuses to sign.
7. Van Chandler and Mark Chandler are no longer employed by the assignee, Luminex Corporation
8. The last known address of Mark Chandler is 4 Niles Road, Austin, Texas 78703.

Respectfully submitted,

Ann Marie Mewherter
Reg. No. 50,484
Agent for Applicants

Conley Rose, P.C.
P.O. Box 684908
Austin, Texas 78768-4908
512/476-1400
Date: September 7, 2004

Pam Gerik

From: Pam Gerik
Sent: Thursday, June 24, 2004 1:47 PM
To: 'vanchan@cox-internet.com'
Subject: Luminex application (Our Ref. 5868-02804)

Divisional application entitled CREATION OF A DATABASE OF BIOCHEMICAL DATA AND METHODS OF USE

Attached are the application, preliminary amendment, and formal papers. I listed Mark's address the same as yours, but if it needs to be different, please let me know and I will change it. Please fax the signed documents to me at 512/703-1250. Thank you for your cooperation.



Pamela Gerik
Legal Assistant
CONLEY ROSE P.C.
700 Lavaca Street, Ste. 720
Austin, Texas 78701
(512) 703-1258
(512) 703-1250, fax

CONLEY ROSE, P.C.

INTELLECTUAL PROPERTY LAW
INCLUDING
PATENTS, TRADEMARKS,
COPYRIGHTS AND
UNFAIR COMPETITION

A PROFESSIONAL CORPORATION
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(713) 238-8000
FACSIMILE (713) 238-8008

CHARLES D. HUSTON
(512) 703-1242
chuston@conley-rose.com

File: 5868-02804

August 19, 2004

Via Certified Mail, Return Receipt Requested

Mark Chandler
4 Niles Rd.
Austin, TX 78703

Re: Divisional Patent Application Serial No. 10/804,451 Entitled "**Creation of a Database of Biochemical Data and Method of Use**" -- Chandler et al.
(Our Ref. 5868-02804)

Dear Mark:

Enclosed is a copy of the above referenced divisional patent application and preliminary amendment filed March 19, 2004. Also enclosed are a Declaration/Power of Attorney and Assignment. Please sign the documents and return them to me in the envelope provided no later than September 7, 2004.

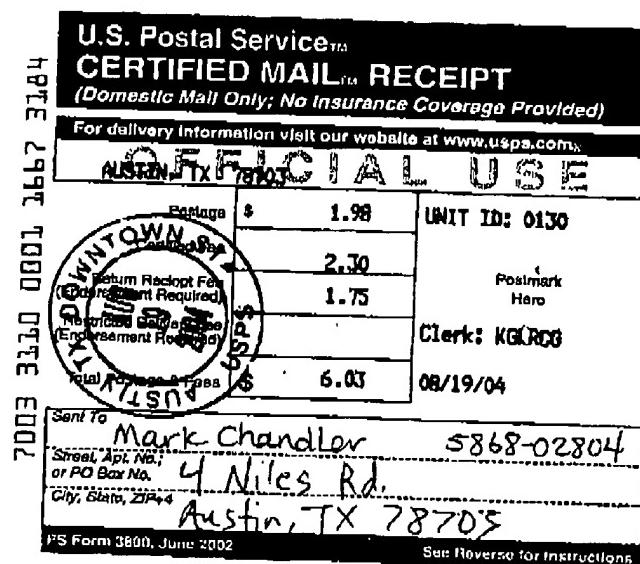
Please contact me if you have any questions or comments.

Sincerely yours,

Pamela Gerik
Legal Assistant

Enclosures

| | | | |
|--|--|---|--|
| SENDER: COMPLETE THIS SECTION | | COMPLETE THIS SECTION ON DELIVERY | |
| <ul style="list-style-type: none"> ■ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. | | <p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Mark Chandler</u> C. Date of Delivery <u>8/12/04</u></p> <p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p> | |
| <p>1. Article Addressed to: Mark Chandler 4 Niles Rd. Austin, TX 78703</p> <p>5868-02804</p> <p>2. Article Number <i>(Transfer from service label)</i> 7003 3110 0001 1667 3184</p> | | <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> | |
| <p>PS Form 3811, August 2001 Domestic Return Receipt 102585-02-M-1540</p> | | | |



Pam Gerik

From: Van Chandler [vanchan@cox-internet.com]
Sent: Monday, August 16, 2004 6:15 PM
To: Pam Gerik
Subject: Re: Luminex application (Our Ref. 5868-02804)

it is:
4 Niles Rd.

Austin...I don't have the zip 78703

----- Original Message -----

From: "Pam Gerik" <pgerik@conley-rose.com>
To: <vanchan@cox-internet.com>
Sent: Tuesday, August 17, 2004 12:28 PM
Subject: FW: Luminex application (Our Ref. 5868-02804)

> Van, I got your message regarding Mark's disinterest. In order to proceed
> without him, I will need his last known mailing address. Can you get that
> and let me know? I appreciate your help.

>

> -----Original Message-----

> From: Pam Gerik
> Sent: Friday, August 06, 2004 12:08 PM
> To: 'Van Chandler'
> Subject: RE: Luminex application (Our Ref. 5868-02804)

>

>

> Van, he has not returned my call. Can you please contact him and ask him
to

> call me at 703-1258? Thanks for any help.

>

> -----Original Message-----

> From: Van Chandler [mailto:vanchan@cox-internet.com]
> Sent: Monday, July 26, 2004 4:04 PM
> To: Pam Gerik
> Subject: Re: Luminex application (Our Ref. 5868-02804)

>

>

> Hi Pam: he's back in the office today...835-8026

>

> ----- Original Message -----

> From: "Pam Gerik" <pgerik@conley-rose.com>
> To: <vanchan@cox-internet.com>
> Sent: Thursday, July 22, 2004 9:59 AM
> Subject: FW: Luminex application (Our Ref. 5868-02804)

>

>

> > Van, we need to submit the signed paperwork by August 7th. I still have
not

> > been able to reach Mark. Have you had any luck in that regard?

> >

> > -----Original Message-----

> > From: Pam Gerik
> > Sent: Wednesday, July 14, 2004 11:41 AM
> > To: 'Van Chandler'
> > Subject: RE: Luminex application (Our Ref. 5868-02804)

> >

> >

> > Van, have you had any luck contacting Mark?

> >

> > -----Original Message-----

> > From: Van Chandler [mailto:vanchan@cox-internet.com]
> > Sent: Monday, June 28, 2004 5:05 PM

>> To: Pam Gerik
>> Subject: Re: Luminex application (Our Ref. 5868-02804)
>>
>>
>> Sorry Pam I don't have it. He may be at his new home in Colorado this
month.
>> I'll try to find out
>>
>> ----- Original Message -----
>> From: "Pam Gerik" <pgerik@conley-rose.com>
>> To: "'Van Chandler'" <vanchan@cox-internet.com>
>> Sent: Tuesday, June 29, 2004 10:40 AM
>> Subject: RE: Luminex application (Our Ref. 5868-02804)
>>
>>
>>> Van, Mark has not returned my call. Does he have an email address?
>>
>>> -----Original Message-----
>>> From: Van Chandler [mailto:vanchan@cox-internet.com]
>>> Sent: Wednesday, June 23, 2004 2:49 PM
>>> To: Pam Gerik
>>> Subject: Re: Luminex application (Our Ref. 5868-02804)
>>>
>>>
>>> Pam:
>>> I'm faxing the signed docs now. Mark's office # is 835-8026 if you
want
> to
>>> call him to get his address.
>>
>>> ----- Original Message -----
>>> From: "Pam Gerik" <pgerik@conley-rose.com>
>>> To: <vanchan@cox-internet.com>
>>> Sent: Thursday, June 24, 2004 1:47 PM
>>> Subject: Luminex application (Our Ref. 5868-02804)
>>>
>>>
>>>> Divisional application entitled CREATION OF A DATABASE OF
BIOCHEMICAL
>>> DATA
>>>> AND METHODS OF USE
>>>
>>>> Attached are the application, preliminary amendment, and formal
papers.
>> I
>>>> listed Mark's address the same as yours, but if it needs to be
different,
>>>> please let me know and I will change it. Please fax the signed
documents
>>> to
>>>> me at 512/703-1250. Thank you for your cooperation.
>>>
>>>> <<PATAPP.pdf>> <<PRELIM AMEND.pdf>> <<DEC&POA.doc>>
>>><<ASSIGNMENT.doc>>
>>>
>>>> Pamela Gerik
>>>> Legal Assistant
>>>> CONLEY ROSE P.C.
>>>> 700 Lavaca Street, Ste. 720
>>>> Austin, Texas 78701
>>>> (512) 703-1258
>>>> (512) 703-1250, fax
>>>
>>>
>>>
>>>